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July 9, 2019

BY ECF AND FAX

Hon. Naomi Reice Buchwald
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Fan Engine Securitization Limited, et al. v. Deutsche Bank Trust Company Americas, as Trustee, Senior Trustee, Operating Bank and Security Trustee (19-cv-04318)

Dear Judge Buchwald:

We represent defendant Deutsche Bank Trust Company Americas, as Trustee, Senior Trustee, Operating Bank and Security Trustee (in such capacities, “DBTCA”) and write in response to Plaintiffs’ July 8, 2019 letter to the Court [ECF No. 34].

Notwithstanding Plaintiffs’ suggestion in their letter that they are not seeking a determination whether DBTCA itself breached the Indenture, the breach of contract claim in the Complaint [ECF No. 1 at 24-25] is pled only against DBTCA.

Rather than simply acknowledge this and agree to strike the offending portion of their motion [ECF No. 28 at 1, 5], Plaintiffs attempt to walk back their motion by tweaking their proposed Order, leaving it inconsistent with their motion, creating uncertainty as to the scope of the motion, the need for DBTCA to file opposition papers and the *res judicata* effect of any decision of the Court.

Plaintiffs’ efforts should not be countenanced by the Court, and the record should be made clear that Plaintiffs are not seeking any relief that implicates whether there was a breach of the Indenture (which would necessarily implicate DBTCA).

We appreciate Your Honor’s consideration of this request and can be available at the Court’s earliest convenience to discuss this matter in advance of the current July 25 deadline for responding to the summary judgment motion.

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Respectfully submitted,

Mark D. Kotwick/mrk

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cc: All Counsel (by ECF)
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